



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

W. Tayloe Murphy, Jr.
Secretary of Natural Resources

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Robert G. Burnley
Director

Steven A. Dietrich
Regional Director

**STATE WATER CONTROL BOARD ENFORCEMENT ACTION
SPECIAL ORDER BY CONSENT
ISSUED TO
THE CITY OF BEDFORD
FOR
THE CITY OF BEDFORD SEWAGE TREATMENT PLANT
VPDES Permit No. 0022390**

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code §62.1-44.15(8a) by the State Water Control Board to the City of Bedford ("the City") for the purpose of resolving certain violations of State Water Control Law and the Regulations. This Order requires evaluation of the sewage collection and transmission systems owned and operated by the City so that the City can identify sources of inflow and infiltration that lead to system overflows, prioritize reduction or elimination of these sources of inflow and infiltration, and perform those corrections on an approved schedule.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia as described in Va. Code §§ 62.1-44.7 and 10.1-1184.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.

An Agency of the Natural Resources Secretariat

5. "Order" means this document, also known as a Consent Special Order.
6. "Plant" means the City of Bedford Sewage Treatment Plant, which operates under VPDES Permit No. VA0022390.
7. "WCRO" means the West Central Regional Office of DEQ, located in Roanoke, Virginia.
8. "Permit" means VPDES Permit No. VA0022390, which was reissued by the Board to the City of Bedford to operate the City of Bedford Sewage Treatment Plant on June 23, 2003.
9. "Regulations" means the Permit Regulation, 9 VAC 25-31-10 *et seq.*
10. "The City" means the City of Bedford, Virginia, a municipal corporation of the Commonwealth of Virginia.
11. "Infiltration" means water other than wastewater that enters a sewer system (including sewer service connections and foundation drains) from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow.
12. "Inflow" means water other than wastewater that enters a sewer system (including sewer system connections) from sources such as, but not limited to, roof leaders, cellar drains, yard drains, area drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, storm waters, surface runoff, street wash waters, or drainage. Inflow does not include, and is distinguished from, infiltration.
13. "I&I" means inflow and infiltration.
14. "Overflow" means a discharge of wastewater from a sanitary sewer collection or transmission system.

SECTION C: Department's Findings of Fact and Conclusions of Law

1. In recent years the City has experienced problems with overflows in its wastewater collection system during wet weather. In June 2003, the City completed a multi-phased sewer system upgrade which included expansion of the Plant, upgrades to the three main pump stations, and rehabilitation of major portions of the wastewater collection system. Construction of the Plant upgrade began in the fall of 1999 and was completed in the spring of 2001. The pump station upgrades began in the fall of 2001 and were completed in June 2002.
2. The collection system rehabilitation included replacement or lining of 47,500 linear feet of

sewer line (representing 20% of the entire amount of sewer main in the system) and replacement or repair of over 300 manholes. The sewer system rehabilitation project began in October 2001 and was completed in June 2003.

3. A report dated October 28, 2003 issued by the City's consultant compared 1998 and 2003 flow data in order to evaluate the effectiveness of I&I work that has been completed to date. The report concluded that during a 15-day period with average daily precipitation of 0.45 inches, total flows had been reduced by 29% and I&I had been reduced by 50%.
4. DEQ issued Notices of Violation or Warning Letters to the City on June 7, 2004, April 14, 2004, March 12, 2004, January 7, 2004, December 10, 2003, October 8, 2003, September 12, 2003, and August 8, 2003 listing a total of twenty-one overflows that had occurred between June 20, 2003 and April 13, 2004. Most of the overflows occurred at the pump stations. These discharges were not authorized by the Permit.
5. In letters dated January 9, 2004 and November 5, 2003, the City explained that it continues to identify and repair sources of I&I. The City Council has appropriated \$100,000 in the 2003/2004 budget for sewer line replacement.
6. Va. Code § 62.1-44.5.A and 9 VAC 25-31-50.A prohibit the discharge of sewage or other wastes into State waters, except in compliance with a certificate or permit issued by the Board.

SECTION D: Agreement and Order

Accordingly, the State Water Control Board, by virtue of the authority granted it in §62.1-44.15(8a), orders the City and the City agrees to perform the actions described in Appendix A of this Order.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of the City, for good cause shown by the City, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (a) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (b) seeking subsequent remediation as may be authorized by law; or (c) taking subsequent action to enforce this Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.

3. For purposes of this Order and subsequent actions with respect to this Order, the City admits the jurisdictional allegations in this Order, factual findings, and conclusions of law contained herein.
4. The City declares that it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.* and waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing shall be construed as a waiver of the right to any administrative proceeding for, or judicial review of, any action taken by the Board or the Director to enforce this Order.
5. Failure by the City to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority as a result of such violations.
6. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
7. The City shall be responsible for failure to comply with its obligations under this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. The City shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. The City shall notify the WCRO Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of this Order. Such notice shall set forth: (a) the reasons for the delay or noncompliance; (b) the projected duration of any such delay or noncompliance; (c) the measures taken and to be taken to prevent or minimize such delay or noncompliance; and (d) the timetable by which such measures will be implemented and the date full compliance will be achieved. Failure to so notify the WCRO Regional Director within 24 hours of learning of any condition above, which the City intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.
8. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally except where otherwise provided.
9. This Order shall become effective upon execution by both the Director or his designee and the City. Notwithstanding the foregoing, the City agrees to be bound by any compliance dates that precede the effective date of this Order.
10. This Order shall continue in effect until: a) the City petitions the Director or his designee to

terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of this order, b) the Director or Board terminates the Order in his or its sole discretion upon 30 days notice to the City, whichever occurs earlier. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve the City from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

11. By the signature of an authorized official below, the City voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of 12 - 6, 2004

Steven A. Dietrich
for Robert G. Burnley, Director
Department of Environmental Quality

The **City of Bedford** voluntarily agrees to the issuance of this Order.

By: J. Craig Meadows, CITY MANAGER

Date: 11/1/04

Commonwealth of Virginia

City/County of Bedford

The foregoing instrument was acknowledged before me this 1st day of November 2004,

by J. Craig Meadows, who is City Manager of the
City of Bedford, on behalf of said City.

Debra B. Anderson
Notary Public

My commission expires: April 30, 2005

APPENDIX A

1. System Evaluation - Not later than December 31, 2005, the City shall submit to DEQ for review and approval a report describing an evaluation of those portions of the collection system which are experiencing or contributing to an overflow caused by hydraulic deficiency or to noncompliance at the Plant. The report must provide estimates of peak flows (including flows that escape from the system) associated with conditions similar to those causing overflow events, provide estimates of the capacity of key system components, identify hydraulic deficiencies (including components of the system with limiting capacity) and identify the major sources that contribute to the peak flows associated with overflow events. The report may include data collected before the effective date of this Order.
2. Capacity Assurance Plan - Not later than December 31, 2005, the City shall to DEQ for review and approval submit a Capacity Assurance Plan ("Plan") specifying short- and long-term actions to address each hydraulic deficiency identified by the system evaluation, including prioritization, alternatives analysis, and a schedule of corrective actions. The schedule shall include specific projects to be completed during the years 2006 through 2008.
3. Plan Updates - The Plan must be reevaluated at least annually and updated, if necessary, to describe any significant change in proposed actions and/or implementation schedule. The Plan must also be updated to reflect available information on the performance of measures that have been implemented. The City shall submit any updates to the Plan to DEQ for review and approval. Upon its approval by DEQ, the Plan and schedule of corrective actions in the Plan shall become a part of and enforceable under the terms of this Order.
4. Not later than December 31, 2004, the City shall:
 - a. Issue a consent order to the Bedford County Public School Board requiring construction of modifications that would prevent of stormwater from entering the drain of the school bus wash pit at the Bedford County Public School Board garage by December 31, 2005.
 - b. Identify the sources of inflow in the sewer segments between manholes 746 and 748, between manholes 597 and 600, and upstream of manhole 584, and schedule correction of that inflow, to be completed not later than December 31, 2005.
5. For fiscal years ("FY") 2005/2006 through 2007/2008, the City shall continue to appropriate \$100,000 in each annual operating budget specifically dedicated to the reduction of I&I. The City has already appropriated \$100,000 for I&I reduction in the

FY 2004/2005 budget. Beginning with FY 2004/2005, any amount in this line item not spent during a given fiscal year shall be carried over to the next fiscal year until a total of \$300,000 has been spent on reduction of I&I.

6. The City shall submit a quarterly progress report on compliance with items required herein on January 10, April 10, July 10, and October 10 of each year.

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